

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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DENNIS GIBBONS, *et al.*,

Plaintiffs,

VS.

NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA., *et al.*,

## Defendants.

Case No. 2:14-cv-586-JCM-VCF

## ORDER

This matter involves Dennis Gibbon's breach-of-contract action against National Union Fire Insurance Company of Pittsburgh, Bank of America, and others. Before the court is Bank of America's Motion for Leave to File an untimely reply brief to its pending Motion to Dismiss. (Doc. #56). Gibbon's opposed (#57). The motion is granted.

Gibbon's opposition is predicated on the timing requirements provided by the court's Local Rules. Parties are generally required to adhere to the court's timing requirements. *See, e.g., Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607–09 (9th Cir. 1992). However, Local Rule IA 3-1 states that “[t]he Court may *sua sponte* or on motion change, dispense with, or waive any of these Rules if the interests of just so require.”

Here, the “interest of justice so require” for two reasons. First, despite its untimely filing, Bank of America has sought to comply with the Local Rules. (*See, e.g.*, Doc. #56). Second, Gibbon’s opposition seeks to prevent Bank of America from filing a reply to a dispositive motion on account of a procedural technicality. This contravenes the spirit of the rules, which directs the courts to focus on the merits of an

1 action. *See, e.g., Eitel v. McCool*, 782 F.2d 1470, 1471–72 (9th Cir. 1986) (stating it is the strong policy  
2 underlying the Federal Rules of Civil Procedure favoring decisions on the merits); *Amron v. Morgan*  
3 *Stanley Inv. Advisors Inc.*, 464 F.3d 338, 343 (2nd Cir. 2006) (“The fundamental command of the Federal  
4 Rules of Civil Procedure is never to exalt form over substance.”).

5 ACCORDINGLY, and for good cause shown,

6 IT IS ORDERED that Bank of America’s Motion for Leave (#56) is GRANTED.

7 IT IS FURTHER ORDERED that Exhibit A to Bank of America’s Motion for Leave (#56) is  
8 deemed the operative reply in support of Bank of America’s Motion to Dismiss.

9 IT IS SO ORDERED.

10 DATED this 9th day of February, 2015.



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12 CAM FERENBACH  
13 UNITED STATES MAGISTRATE JUDGE  
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